(9) (1)

Single Bench Final

IN THE COURT OF HONOURABLE HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION NO 2837 / 2003

PETITIONER

SHYAM SUNDER SHARMA S/O MR. MAYARAM SHARMA AGED ABOUT 28 YEAR RESIDENCE OF NEXT TO ARVIND DAIRY FORM JARHABHATA POLICE STATION CIVIL LINES BILASPUR (C.G.)

VERSUS

RESPONDENTS

1. STATE OF CHHATTISGARH THROUGH ITS CHIEF SECRETRARY HOME DEPARTMENT D.K. S. BHAVAN MANTRALAYA RAIPUR C.G.
2. DIRECTOR GENERAL OF POLICE POLICE HEAD QUARTER RAIPUR C.G.
3. SUPERINTENDENT OF POLICE DISTT. BILASPUR C.G.

P. R. No. 2201/03
Presented by Shri Santosh Diwedi
dated 09.09.03

WRIT PETTION UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF APPROPRIATE WRITS /WRITS IN THE NATURE OF MANDAMUS/ AND /OR CETIORARY/AND/ OR PROHIBITION/ADN/ OR OTHER APPROPRIATE ORDERS/ORDER

XI-HC-22

(98)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक WP 2887 सन् 2003

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	10.09.2003	

Shri Suresh Pandey, counsel for the petitioner,

Dr. N.K. Shukla, Additional Advocate General with Shri Sanjay K. Agrawal, Deputy Advocate General for the State/respondents.

By this petition under Articles 226 & 227 of the Constitution of India, the petitioner has challenged the order dated 1st September, 2003 passed by the Director General of Police (respondent No.2), whereby respondent No.3, the Superintendent of Police, Distt. Bilaspur, has informed the petitioner vide his letter dated 05.09.2003 that due to change in the policy of age limit, he is not fit to the post of Sub Inspector of Police.

The petitioner's case is that in pursuance to the notification issued by respondent No.2, the petitioner had applied for the post of Sub Inspector and his application form was accepted and he was allowed to appear in the physical test. The petitioner cleared the physical test and now the respondents are conducting the written examination on 11th & 12th of September, 2003, of those candidates who have clear the physical test. All of a sudden, respondent No.3 issued the impugned order informing the petitioner that he is not eligible being over age. The impugned order of respondent No.3 is illegal, arbitrary and caprices against the established principles and rule of law. After allowing the petitioner to appear in the physical

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित —2—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

test, the respondents are not within their right to debar the petitioner from appearing in the written examination.

Preliminary objection has been filed on behalf of the State/respondents.

I have heard the learned counsel for the parties.

The relevant rules for the recruitment to the post of Sub Inspector have been framed by the State of Chhattisgarh. Rule 8 of these rules prescribed the minimum and maximum age limit for being eligible to appear in the test for the post of Non-Gazetted Police Executive. Clause (a) of sub-rule (1) of Rule 8 lays down that a candidate must have the minimum age of 18 years as prescribed in Column 4 of Schedule-III and should have not crossed the age of 28 years as prescribed in Column 5 of Schedule-III as on 1st January of the year succeeding the year of inviting the applications and conducting the exam. Since the exam is being conducted in September, 2003, therefore, as per this Rule, the candidate should not have crossed the age of 28 years as on 1st January, 2004 or the candidate ought to have completed the age of 18 years as on 1st January, 2004. Since the petitioner's date of birth is 10.11.1975 and as on 01.01.2004 his age will be 28 years, one month and 21 days. Therefore, the petitioner will be over age as on 01.01.2004. As per the rules, the petitioner should not have crossed the age of 28 years.

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Therefore, the petitioner is not eligible to appear in the test being over age; as such nobody could permit him to appear in the exam. By mistake he was allowed to appear in physical test, but later on detecting the said mistake if the respondents have intimated the petitioner that being over age he cannot be allowed to appear in the written exam, they have not committed any illegality. Therefore, there is no substance in this petition.

In the circumstances, the petition is without force and the same is liable to be dismissed. Accordingly, the writ petition is dismissed.

Consequently, M.(W.)P.No.2592/2003 and I.A.No.8497/2003 stand disposed of.

Sd/-
L.C. Bhadoo
Judge

Soma

12.9.03

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